

Issue: Compliance – Grievance Procedure (5-Day Rule); Ruling Date: March 1, 2019;
Ruling No. 2019-4867; Agency: Department of Corrections; Outcome: Grievant in
Compliance.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Equal Employment and Dispute Resolution

COMPLIANCE RULING

In the matter of the Department of Corrections
Ruling Number 2019-4867
March 1, 2019

The Department of Correction (the “agency”) has requested a compliance ruling from the Office of Equal Employment and Dispute Resolution (“EEDR”) at the Department of Human Resource Management in relation to the grievant’s alleged failure to comply with the time limits set forth in the grievance procedure for advancing or concluding his grievance.

On or about July 10, 2018, the grievant initiated a grievance with the agency. The agency states that the second step response was mailed to the grievant on August 24. Having received no further response from the grievant, the agency sent, via U.S. Mail, a notice of noncompliance to him on January 15, 2019. In its notice of noncompliance, the agency requested a response from the grievant within five workdays of his receipt of the notice. Based on the grievant’s alleged noncompliance with the grievance procedure, the agency seeks a compliance ruling allowing it to administratively close the grievance.¹

Based on EEDR’s review of the information in the grievance record, the second step meeting was originally scheduled for August 6, 2018; however, the grievant did not attend the meeting. The second step response states that, when subsequently contacted by phone, the grievant informed the second step-respondent that he “d[id] not wish to advance the grievance.” Although the grievant did not formally conclude his grievance using the Grievance Form A itself, EEDR finds that he adequately communicated his desire to conclude the grievance to the second step-respondent, as memorialized in the second step response.² EEDR, therefore, considers this grievance concluded.

EEDR’s rulings on matters of compliance are final and nonappealable.³

A handwritten signature in black ink, appearing to read "Chris M. Grab", written over a horizontal line.

Christopher M. Grab
Director
Office of Equal Employment and Dispute Resolution

¹ The agency has also indicated that the grievant separated from employment while the grievance was pending.

² EEDR attempted to contact the grievant to determine whether intended to conclude the grievance when he spoke with the second step-respondent. The grievant did not respond to EEDR’s inquiry.

³ See Va. Code §§ 2.2-1202.1(5), 2.2-3003(G).